

~~GOLDMAN ISMAIL TOMASELLI BRENNAN & BAUM LLP~~

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MEMO ENDORSED

December 12, 2014

Hon. Colleen McMahon
United States District Judge
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007-1312

Jan 9 at noon
Colleen McMahon
12/15/14

Re: Agreed Letter Motion Seeking Adjournment of 12/19/14 Initial Pretrial Conference in *Behaviour Interactive Inc. v. MLB Advanced Media, L.P.*, 14-cv-08797-CM

Dear Judge McMahon:

Pursuant to Local Rules 5.2(b) and 7.1(d), the Court's Individual Rules, and the Court's Order Scheduling an Initial Pretrial Conference (Dkt. # 5), Defendant MLB Advanced Media, L.P. ("MLBAM") hereby files this Agreed Letter Motion seeking a brief adjournment of the December 19, 2014 Initial Pretrial Conference and the associated deadline to file a proposed discovery order in the above-referenced matter. MLBAM and Plaintiff Behaviour Interactive Inc. ("Behaviour") have agreed to seek an adjournment of the December 19 conference until the week of January 5-9, 2015.

This is the parties' first adjournment request, and the requested adjournment will facilitate discussions regarding a potential jurisdictional defect in this case. On December 10, MLBAM informed Behaviour that diversity jurisdiction is lacking. Behaviour has requested supporting documentation, which MLBAM has agreed to provide as soon as possible. Upon Behaviour's review of this documentation, Behaviour will decide whether to voluntarily dismiss this action without prejudice to its refile in state court, or whether it disagrees with MLBAM's assessment, in which event MLBAM would file a motion to determine the issue. The parties believe an adjournment until the week of January 5-9, 2015 will provide sufficient time to complete this process, and may also obviate the need for judicial intervention to resolve the issue or otherwise enter a discovery schedule.

Based on the foregoing, and with Behaviour's agreement and consent hereto, MLBAM hereby respectfully requests that the Court adjourn the December 19, 2014 Initial Pretrial Conference until the week of January 5-9, 2015.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Alan E. Littmann". The signature is fluid and cursive, with the first name "Alan" and last name "Littmann" clearly distinguishable.

Alan Littmann

Counsel for Defendant MLB Advanced Media, L.P.

CC (via e-mail):

Counsel for Plaintiff Behaviour Interactive Inc.:

Toby Butterfield, Esq.

Andrew Jacobs, Esq.